

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

BENNIE ANDERSON,)	CASE NO. 1:05 CV 2718
)	
Petitioner,)	JUDGE DAN AARON POLSTER
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
JANET R. BURNSIDE, Judge,)	<u>AND ORDER</u>
)	
Respondent.)	

On November 21, 2005, petitioner pro se Bennie Anderson, an inmate at the Cuyahoga County Jail, filed this petition for writ of mandamus. The petition appears to seek an order requiring Ohio Court of Common Pleas Judge Janet R. Burnside to recuse herself from Anderson's criminal proceedings. For the reasons stated below, this action is dismissed.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th

Cir. Feb. 1, 2000).

As a threshold matter, this court may not issue a writ of mandamus to direct state courts or their judicial officers in the performance of their duties. Haggard v. State of Tennessee, 421 F.2d 1384 (6th Cir. 1970). Further, mandamus is a drastic remedy to be applied only in extraordinary situations. Kerr v. United States District Court for the Northern District of California, 426 U.S. 394 (1976). A party seeking mandamus has the burden of showing no other adequate means of relief are available. Allied Chemical Corp. v. Daiflon, Inc., 449 U.S. 33 (1980). Even liberally construed, the complaint does not set forth allegations which might justify issuance of a writ of mandamus in the instant case.

Accordingly, this action is dismissed pursuant to 28 U.S.C. § 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

/s/Dan Aaron Polster 12/22/05
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE